

EXHIBIT 1

SHAFER DEPOSITION

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION
CASE NO. 6:08-3980-GRA

CONFIDENTIAL

HILL HOLLIDAY CONNORS COSMOPULOS,
INC., d/b/a ERWIN-PENLAND,
Plaintiffs,

DEPOSITION UNDER
ORAL EXAMINATION
OF
ANDREW SHAFER

-vs-

JEFFREY GREENFIELD and 1st
APPROACH, LLC,

Defendants, and
Third-Party
Plaintiffs,

-vs-

CELLICO PARTNERSHIP d/b/a VERIZON
WIRELESS, and JOSEPH A. ERWIN,
Third-Party
Defendants.

TRANSCRIPT of the deposition of the witness,
called for Oral Examination in the above-captioned
matter, said deposition being taken pursuant to the
Superior Court Rules of Practice and Procedure by
and before CHRISTINA LYNN HANSEN, a Notary Public
and Certified Court Reporter of the State of New
Jersey, at THE DOLCE HOTEL IN BASKING RIDGE, 300
North Maple Avenue, Basking Ridge, New Jersey, on
Tuesday, December 1, 2009, commencing at
approximately 4:52 in the afternoon.

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JOB # 35633

Page 10

1 A. I worked at Mercedes-Benz.
 2 Q. Okay. What did you do at Mercedes?
 3 A. Regional marketing job.
 4 Q. Okay.
 5 A. Similar?
 6 Q. Similar?
 7 A. Uh-huh.
 8 Q. What did you do before that?
 9 A. I was in New Jersey Mercedes-Benz.
 10 And before that I was in advertising.
 11 Q. Okay. And before -- what was the
 12 advertising job before Mercedes?
 13 A. I was account management.
 14 Q. Okay. And before account management,
 15 were you in school?
 16 A. Uh-huh.
 17 Q. Okay. And how far did you get in
 18 school?
 19 A. Four years.
 20 Q. Okay.
 21 A. Under-grad.
 22 Q. Under-grad. Where did you go?
 23 A. Gettysburg College.
 24 Q. Okay. What did you major?
 25 A. Psychology.

Page 11

1 Q. Kind of fits.
 2 All right. So tell me -- you were
 3 involved with the initial presentation of the How
 4 Sweet the Sound program. Is that correct?
 5 MS. McKINNEY: Object to form.
 6 MR. CHROMY: Object.
 7 Q. Just so you're clear, the attorneys
 8 are going to object --
 9 A. Yeah.
 10 Q. -- a lot due to my inarticulate
 11 question. If you understand it, you're more than
 12 welcome to answer it. If you need me to clarify it,
 13 please ask me and I'm happy to.
 14 A. Can you clarify?
 15 Q. Sure.
 16 Verizon Wireless eventually came can
 17 run a program called How Sweet the Sound. Is that
 18 true?
 19 A. Yes.
 20 Q. Do you know how that began?
 21 A. Yes.
 22 Q. Can you tell me?
 23 A. The original proposal came from
 24 Erwin-Penland, and they proposed it to us in the
 25 south as a concept that we would potentially

Page 12

1 implement for Verizon Wireless.
 2 Q. Did they present it orally or was it
 3 by e-mail?
 4 A. Orally.
 5 Q. Were you at the presentation?
 6 A. I was.
 7 Q. And who was there on behalf of
 8 Erwin-Penland?
 9 A. The only two people I know for sure
 10 were Joe Erwin and Allen Bosworth.
 11 Q. Okay. Do you remember if there was
 12 anybody else there?
 13 A. I do not.
 14 Q. The only people that you can remember
 15 that were not Verizon people --
 16 A. Correct.
 17 Q. -- would be Allen Bosworth and Joe
 18 Erwin?
 19 A. Correct.
 20 Q. Do you know Jeff Greenfield at all?
 21 A. I do not.
 22 Q. Have you seen any recent picture of
 23 Jeff Greenfield?
 24 A. I have not.
 25 Q. Do you have -- and you have no

Page 13

1 recollection of him whatsoever?
 2 A. Nope.
 3 Q. Have you ever dealt with him?
 4 A. No.
 5 Q. Have you ever spoken to him?
 6 A. No.
 7 Q. Have you ever received any e-mail
 8 from him?
 9 A. No.
 10 Q. Ever been copied on an e-mail in
 11 which he was copied on?
 12 A. Not to my knowledge.
 13 Q. Is it your understanding that How
 14 Sweet the Sound program is -- was created and -- was
 15 created by Erwin-Penland alone?
 16 A. I don't know.
 17 MS. McKINNEY: Object to form.
 18 Q. Okay. Do you know that Erwin-Penland
 19 sued Jeff Greenfield?
 20 A. I have come to know that.
 21 Q. Okay. And I don't want do know
 22 anything the attorneys have told you in preparation
 23 for today or in whatever other consultations you've
 24 been involved. It's privileged, and I don't want
 25 you to tell me any of that. I'm just asking your

Page 14

1 general understanding of the lawsuit beforehand, if
2 you had any.

3 Were you aware of anybody's claims to
4 the creation of the How Sweet the Sound concept?

5 MS. McKINNEY: Object.

6 A. I was not.

7 Q. Does it surprise you to that
8 somebody's making such a claim?

9 MS. McKINNEY: Object.

10 MR. CHROMY: Objection.

11 A. I don't know.

12 Q. Okay.

13 (Whereupon there was a discussion off the record.)

14 Q. Tell me about that initial
15 presentation. What do you recall?

16 A. I -- they came in, they met with Joe
17 Saracino and myself, presented the concept, we had
18 some dialogue around what we thought about the
19 concept, we talked about next steps. And that was
20 the initial meeting.

21 Q. What was Joe's job title at the time?

22 A. Vice-president of marketing, I
23 believe.

24 MR. MUCKENFUSS: Just for the record,
25 Robert Muckenfuss here. How are you doing?

Page 15

1 MR. DOOLITTLE: Good. Good to see
2 you again.

3 MR. MUCKENFUSS: Okay.

4 MR. DOOLITTLE: Long time, no see.

5 Q. Oh, so yeah. They came and presented
6 the program. Was it power point?

7 A. I believe so.

8 Q. Do you remember where?

9 A. I don't. I don't know the name of
10 the -- it was a conference room.

11 Q. In --

12 A. In Alfareda. Sorry.

13 Q. At Verizon's facilities?

14 A. Yes.

15 Q. Okay. Yeah. I don't care which
16 conference room. But I appreciate you trying to
17 remember.

18 Do you remember if it was winter or
19 summer?

20 A. I don't recall.

21 Q. Okay. What was your initial
22 impression of the How Sweet the Sound campaign idea?

23 A. Positive.

24 Q. In what way?

25 A. We had discussed about our need to

Page 16

1 try and penetrate, you know, African-American
2 segment. We were under-indexed against that segment
3 as Verizon wireless as a business, and it seemed
4 like a good idea to try and expose our brand to that
5 segment.

6 Q. Okay. And this seemed like a good
7 way to do it?

8 A. Yeah.

9 Q. Was there any part that gave you
10 concern about the program as it was initially
11 presented?

12 MS. McKINNEY: Object to the form.

13 A. Not concern.

14 Q. Okay. Were you curious about any
15 aspect of it that you wanted to see further fleshed
16 out?

17 A. We had said -- our feedback to them
18 on the idea was that we thought it was a big idea,
19 but it was too big of an idea for our jurisdiction
20 in the south. We didn't have budget, we didn't have
21 scope to be able to support an idea like that. But
22 we really liked the idea in its entirety. There
23 were certain parts we thought we could execute;
24 locally, but there were certain parts that were
25 national in scope that we could not.

Page 17

1 Q. Do you remember what the parts that
2 you thought you could do locally yourself?

3 A. The grassroots, the event based
4 things. So the actual event that would be the
5 choirs singing locally.

6 Q. Okay.

7 A. And then having some sort of
8 competition around that.

9 Q. Okay. And the national part of it
10 that you wouldn't be able to handle?

11 A. The T.V., the American Idol version
12 of the T.V. idea.

13 Q. Okay. And do you -- today's 2009 How
14 Sweet the Sound concept, do you envision it to be --

15 A. I'm not familiar with it.

16 Q. Not familiar with it at all?

17 (Whereupon there was a discussion off the record.)

18 MR. MUCKENFUSS: Try not to talk over
19 --

20 MR. DOOLITTLE: Yeah. I apologize.

21 Q. Are you familiar with the 2009 How
22 Sweet the Sound concept?

23 A. I am not familiar with it.

24 Q. Okay. What is your last involvement
25 in How Sweet the Sound campaign?

Page 26

1 A. It's Director of Marketing
 2 Communications. So you ran all of the marketing
 3 communication elements for the south.
 4 Q. I'm sorry. I forgot. I apologize.
 5 Prior to the presentation that you
 6 saw in 2006. Is that correct?
 7 MS. McKINNEY: Object.
 8 Q. You don't --
 9 A. I don't recall. If you're telling me
 10 --
 11 Q. Yeah. I mean, I'm sorry. I don't
 12 mean to insert words in your mouth.
 13 You think you saw or you were first
 14 made aware of How Sweet the Sound by a presentation
 15 given buy Allen Bosworth and Joe Erwin. Correct?
 16 A. Correct.
 17 Q. It was either 2006 or 2007, you're
 18 not positive. Is that correct?
 19 A. Correct.
 20 Q. Okay. Prior to that presentation,
 21 what did you know about How Sweet the Sound?
 22 A. Nothing.
 23 Q. Did somebody invite you to the
 24 meeting that day or was it something that was set up
 25 ahead of time?

Page 27

1 A. Allen had told me that he -- that
 2 Erwin-Penland had a big idea that they wanted to
 3 come talk to us about, could I help set up a meeting
 4 with Joe. And I said, "Sure." He didn't give me
 5 any specifics.
 6 Q. And you had a prior relationship with
 7 Allen at this point. Is that right?
 8 A. Yes.
 9 Q. So you trusted him that it was a good
 10 idea to take to Joe. Is that right?
 11 A. Yeah.
 12 Q. Okay. Fair enough.
 13 He didn't let you down, did he?
 14 A. Nope.
 15 MS. McKINNEY: Object.
 16 Q. Okay. Once that was -- so then you
 17 had the presentation, then Joe presumably got him a
 18 meeting and -- at Verizon headquarters?
 19 A. The next step's were that's what was
 20 going to happen.
 21 Q. Okay. Do you know whether or not
 22 that actually occurred?
 23 A. Yes.
 24 Q. Okay. And you know that because
 25 eventually Verizon began to air the program or --

Page 28

1 A. Well, no. I mean, I had heard that
 2 the meeting was going to take place.
 3 Q. Okay. Do you know what the results
 4 were of that meeting?
 5 A. I dont know what the net takeaway of
 6 the meeting was.
 7 Q. Do you know whether or not Verizon
 8 eventually decided to do the How Sweet the Sound
 9 campaign?
 10 A. Well, eventually we ended up
 11 executing a part of the How Sweet the Sound as an
 12 event-based program.
 13 Q. Okay. And were you involved in the
 14 Memphis --
 15 A. Yes.
 16 Q. -- How Sweet the Sound production?
 17 A. Right.
 18 Q. That was a -- was that a test market?
 19 A. No. I mean, at the time we had --
 20 they -- we said, 'We will go implement this program
 21 if it's successful.' Obviously, we were hopeful
 22 that it would be became national, but there were no
 23 obligations to that.
 24 Q. Right.
 25 And when I say, "Test market," I

Page 29

1 mean, you're running it in a limited area. Is that
 2 true?
 3 A. Yes.
 4 MR. MUCKENFUSS: Objection.
 5 Q. Okay. And you ran it just in the
 6 Memphis location?
 7 A. Correct.
 8 Q. And your idea was hopefully if it
 9 worked, you would -- hopefully it would go to other
 10 locations as well. Is that true?
 11 MS. McKINNEY: Object.
 12 A. There were a lot of criteria to
 13 evaluate. But, yes, in the end if it was
 14 successful, based on those criteria, we would want
 15 to do it more.
 16 Q. Right.
 17 Were you involved in assessing
 18 whether or not it was successful?
 19 A. No.
 20 Q. By that time you'd already gone to
 21 T.V.?
 22 A. Correct.
 23 Q. Okay. Tell me what your involvement
 24 was with the Memphis airing of How Sweet the Sound,
 25 if you will.